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10/848,829	05/19/2004	Thomas John Nyland	14684.1US01	4775

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Merchant & Gould P.C.  
P.O. Box 2903  
Minneapolis, MN 55402-0903

EXAMINER
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ROWAN, KURT C

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3643

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PAPER

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**GROUP 3600**

**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/848,829  
Filing Date: May 19, 2004  
Appellant(s): NYLAND, THOMAS JOHN

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David Smaltz  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed November 7, 2006 appealing from the Office action mailed April 4, 2006.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

2146350	ROBERTS	Feb. 1939
5212900	PERRY	May 1993

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 11, 11, and 13 are rejected under 35 USC 102(b) as being anticipated Roberts (US 2146350).

Claims 23-26, and 35 are rejected under 35 USC 103(a) as being obvious over Perry (US 5212900) in view of Roberts (US 2146350).

**(10) Response to Argument**

Roberts shows a coupler adapted to be coupled to the handle of a fishing rod and a forearm receiving member. Clearly the arm clamp of Roberts has an open front and rear ends. The forearm receiving member being positioned above the coupler. Applicant argues that the length of the forearm receiving member extends radially outward from the pivot axis and that the length of the channel extends between open front and rear ends. Roberts also contemplates the length of the forearm receiving member extending radially outward from the pivot axis which is taken to be bolt 9 since when the arm cradle is tilted either up or down from Fig. 3, the length in the same context as applicant has used the term, extends radially outwardly from the pivot axis. Further Roberts shows the forearm receiving member inclines relative to the coupler as the arm cradle extends from the front end to the back end.

As to claim 23, applicant states that Perry discloses that the forearm is held in a parallel relation with the fishing rod, but this is not the case since in the embodiment shown in Fig. 2, the rod is inserted in channel 106 which is adjacent to the arm cradle opening 80, but since a user's arm is inserted into the arm cradle and a user's hand

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holds the front of the fishing rod, a forearm of a user can not be parallel to the fishing pole. The angle is not large, but clearly the two are not parallel as suggested. A change in the orientation of the pins to the vertical could still extend through the overlapping side walls of braces 52, 54 and they would allow the user's forearm to flex toward and away from the upper arm when the support device is in use. Roberts shows a fishing rod holder as discussed above and shows supports a persons forearm at an angle relative to the pole. Hence it would have been obvious to combine the references. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation is generally available to one of ordinary skill in the art since this would permit an up and down adjustment of the members for a more comfortable fit.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

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Respectfully submitted,

Kurt Rowan

A handwritten signature in black ink, appearing to read "Kurt Rowan", with a long, sweeping horizontal stroke extending to the right.

KURT ROWAN  
PRIMARY EXAMINER  
GROUP 3200

Conferees:

Jeff Gellner

Darren Ark